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FILED IN THE CLERK'S OFFICE  
OF THE CIRCUIT COURT OF THE  
ALBEMARLE CIRCUIT COURT  
E. GERALD TREMBLAY  
1922-2003  
DOUG T. SMITH, JR.  
1932-2018  
OF COUNSEL  
JOHN K. TAGGART, III

TESTE: \_\_\_\_\_  
CLERK/DEPUTY CLERK

**VIA HAND DELIVERY**

May 28, 2019

CL19-868

The Honorable Jon R. Zug, Clerk  
Circuit Court of Albemarle County  
501 East Jefferson Street  
Charlottesville, Virginia 22902

Re: Edward Dickinson Tayloe v. C-Ville Holdings, LLC, et al.  
Circuit Court of Albemarle County

Dear Mr. Zug:

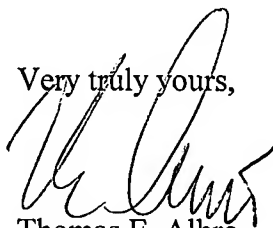
Enclosed please find an original and four copies of a Complaint to be filed as a new case. Please attach the summonses to the three service copies and call my office so they may be picked up for service by a private process server. I have enclosed a firm check made payable to your office in the amount of \$342.00 to cover the filing fee.

I would be grateful if you would stamp the remaining copy of the Complaint "filed" and return it to the runner while she waits.

Thank you for your prompt attention to this matter. Please call me if you have any questions.

With best regards, I am

Very truly yours,



Thomas E. Albro

TEA/dn  
Enclosures

cc: Mr. Edward Dickinson Tayloe (w/encl.)

CL19-868

# COVER SHEET FOR FILING CIVIL ACTIONS

COMMONWEALTH OF VIRGINIA

Albemarle County

FILED IN THE CLERK'S OFFICE  
OF THE CIRCUIT COURT (CLERK'S OFFICE USE ONLY)  
ALBEMARLE CIRCUIT COURT  
Circuit Court

Edward Dickinson Tayloe

PLAINTIFF(S)

v./In re:

C-ville Holdings, LLC et al.: 28

DEFENDANT(S)

TESTE:

CLERK/DEPUTY CLERK

I, the undersigned ☐ plaintiff ☐ defendant ☒ attorney for ☒ plaintiff ☐ defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

## GENERAL CIVIL

### Subsequent Actions

- ☐ Claim Impleading Third Party Defendant  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Counterclaim  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Cross Claim  
☐ Interpleader  
☐ Reinstatement (other than divorce or driving privileges)  
☐ Removal of Case to Federal Court

### Business & Contract

- ☐ Attachment  
☐ Confessed Judgment  
☐ Contract Action  
☐ Contract Specific Performance  
☐ Detinue  
☐ Garnishment

### Property

- ☐ Annexation  
☐ Condemnation  
☐ Ejectment  
☐ Encumber/Sell Real Estate  
☐ Enforce Vendor's Lien  
☐ Escheatment  
☐ Establish Boundaries  
☐ Landlord/Tenant  
☐ Unlawful Detainer  
☐ Mechanics Lien  
☐ Partition  
☐ Quiet Title  
☐ Termination of Mineral Rights

### Tort

- ☐ Asbestos Litigation  
☐ Compromise Settlement  
☐ Intentional Tort  
☐ Medical Malpractice  
☐ Motor Vehicle Tort  
☐ Product Liability  
☐ Wrongful Death  
☒ Other General Tort Liability

## ADMINISTRATIVE LAW

- ☐ Appeal/Judicial Review of Decision of (select one)  
☐ ABC Board  
☐ Board of Zoning  
☐ Compensation Board  
☐ DMV License Suspension  
☐ Employee Grievance Decision  
☐ Employment Commission  
☐ Local Government  
☐ Marine Resources Commission  
☐ School Board  
☐ Voter Registration  
☐ Other Administrative Appeal

## DOMESTIC/FAMILY

- ☐ Adoption  
☐ Adoption - Foreign  
☐ Adult Protection  
☐ Annulment  
☐ Annulment - Counterclaim/Responsive Pleading  
☐ Child Abuse and Neglect - Unfounded Complaint  
☐ Civil Contempt  
☐ Divorce (select one)  
☐ Complaint - Contested\*  
☐ Complaint - Uncontested\*  
☐ Counterclaim/Responsive Pleading  
☐ Reinstatement - Custody/Visitation/Support/Equitable Distribution  
☐ Separate Maintenance  
☐ Separate Maintenance Counterclaim

## WRITS

- ☐ Certiorari  
☐ Habeas Corpus  
☐ Mandamus  
☐ Prohibition  
☐ Quo Warranto

## PROBATE/WILLS AND TRUSTS

- ☐ Accounting  
☐ Aid and Guidance  
☐ Appointment (select one)  
☐ Guardian/Conservator  
☐ Standby Guardian/Conservator  
☐ Custodian/Successor Custodian (UTMA)  
☐ Trust (select one)  
☐ Impress/Declare  
☐ Reformation  
☐ Will (select one)  
☐ Construe  
☐ Contested

## MISCELLANEOUS

- ☐ Appointment (select one)  
☐ Church Trustee  
☐ Conservator of Peace  
☐ Marriage Celebrant  
☐ Bond Forfeiture Appeal  
☐ Declaratory Judgment  
☐ Declare Death  
☐ Driving Privileges (select one)  
☐ Reinstatement pursuant to § 46.2-427  
☐ Restoration - Habitual Offender or 3<sup>rd</sup> Offense  
☐ Expungement  
☐ Firearms Rights - Restoration  
☐ Forfeiture of U.S. Currency  
☐ Freedom of Information  
☐ Injunction  
☐ Interdiction  
☐ Interrogatory  
☐ Judgment Lien-Bill to Enforce  
☐ Law Enforcement/Public Official Petition  
☐ Name Change  
☐ Referendum Elections  
☐ Sever Order  
☐ Taxes (select one)  
☐ Correct Erroneous State/Local  
☐ Delinquent  
☐ Vehicle Confiscation  
☐ Voting Rights - Restoration  
☐ Other (please specify)

☒ Damages in the amount of \$ 1,350,000.00 are claimed.

May 28, 2019

DATE

Thomas E. Albro

PRINT NAME

Tremblay &amp; Smith, PLLC 105 E. High St.

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

Charlottesville, Virginia 22902 (434)977-4455

tom.albro@tremblaysmith.com

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

☐ PLAINTIFF☐ DEFENDANT☒ ATTORNEY FOR☐ PLAINTIFF☐ DEFENDANT

\*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

FILED IN THE CLERK'S OFFICE  
OF THE CIRCUIT COURT OF THE  
ALBEMARLE CIRCUIT COURT

**VIRGINIA:**

DATE: 05/28/2019 @15:36:39

**IN THE CIRCUIT COURT OF THE COUNTY OF ALBEMARLE**

TESTE: \_\_\_\_\_  
CLERK/DEPUTY CLERK

**EDWARD DICKINSON TAYLOE, II,**

*Plaintiff,*

**v.**

**CASE NO.:** CL19-868


**C-VILLE HOLDINGS, LLC**

**Serve: J. Alden English, Registered Agent  
Woods Rogers, PLC  
123 East Main Street  
5<sup>th</sup> Floor  
Charlottesville, Virginia 22902**

**and**

**MELISSA PROVENCE**  


**and**

**JALANE SCHMIDT**  


*Defendants.*

**COMPLAINT**

**TO THE HONORABLE JUDGES OF SAID COURT:**

**COMES NOW** Edward Dickinson Tayloe, II ("Tayloe" or "Plaintiff"), and  
moves the Court for entry of judgment against C-ville Holdings, LLC ("C-Ville  
Weekly"), Melissa Provence (also known as "Lisa Provence"), and Jalane Schmidt

(collectively, “Defendants”), jointly and severally, and in support thereof respectfully states the following:

### **Nature of the Action**

1. This is a defamation claim brought by Plaintiff Tayloe against C-ville Weekly, Melissa Provence, and Jalane Schmidt for a profile entitled “The plaintiffs: Who’s who in the fight to keep Confederate monuments” (the “Profile”), which was published in the *C-Ville Weekly* print and online editions on March 6, 2019. The Profile damaged Plaintiff Tayloe’s personal and professional reputation by alleging, by implication and absent any factual support, that Plaintiff Tayloe opposed renaming Jackson and Lee Parks and removing their namesake monuments because he is a racist and an opponent of people of color. The Defendants’ “evidence” for this false claim was Tayloe’s participation in a lawsuit intended to preserve and protect the monuments in Lee and Jackson Parks, to oppose their renaming, and to oppose their covering with tarpaulins. This defamation action is brought to seek redress for the damage Plaintiff Tayloe suffered as a result of the publication of Defendants’ false and defamatory statements, which subjected him to undeserved scorn and humiliation as an alleged racist living in the City of Charlottesville.

### **Parties and Jurisdiction**

2.. Plaintiff Tayloe is an adult resident of Charlottesville, Virginia.

3. On information and belief, Defendant C-ville Holdings, LLC is a Virginia limited liability corporation, and the owner and publisher of *C-ville Weekly*, a Charlottesville-based newspaper. C-ville Holdings, LLC is responsible for and liable for all actions taken by Defendant Melissa Provence alleged in this Complaint. On information and belief, Defendant Melissa Provence is an adult resident of Albemarle

County, Virginia. On information and belief, Defendant Jalane Schmidt is an adult resident of Charlottesville, Virginia.

4. As the News Editor of C-ville Weekly, Melissa Provence was an employee, agent, and servant of her co-defendant C-ville Holdings, LLC. In researching, writing, editing, and assisting in the publication of the C-ville Weekly's articles, Provence acted within the scope of her employment and exercised the agency granted to her by Defendant C-ville Holding, LLC. In publishing stories written by Provence alongside her byline in its magazine, C-ville Holding, LLC participated in, authorized, and ratified Provence's research, writing, editing, and assistance in the publication of her story.

5. Many of the causes of action alleged in this Complaint arose in the County of Albemarle. On information and belief, Defendant Melissa Provence lives in Albemarle County. On information and belief, Defendants regularly conduct substantial business activity in the County of Albemarle, Virginia. Venue is proper in this Court.

#### **Statement of Facts**

6. Paragraphs 1-5 of this Complaint are realleged and incorporated herein by reference.

#### **The Charlottesville Statue Litigation**

7. On February 6, 2017, the Charlottesville City Council passed a resolution to remove the statue of Robert E. Lee from the park formerly known as Lee Park. On that same day, the City Council also passed a resolution to rename Lee Park. Later in 2017, it was renamed Emancipation Park; in 2018, City Council renamed the park again to Market Street Park. Lee Park contains an equestrian statue and monument of Confederate General Robert E. Lee.

8. On February 6, 2017, the Charlottesville City Council passed a resolution to redesign and transform the park formerly known as Jackson Park. The resolution also proposed to redesign Lee Park, to add a memorial to Jackson Park, and to rename Jackson Park. Later in 2017, it was renamed Justice Park; in 2018, City Council renamed the park again to Court Square Park. Jackson Park contains a statue and monument to Confederate General Thomas Jonathan Jackson.

9. These resolutions by Charlottesville City Council spawned widespread debate and disagreement concerning the future of the two parks, as well as their namesake monuments.

10. On March 20, 2017, a group of interested citizens filed a Complaint in Charlottesville Circuit Court objecting to the defacement and removal of the two monuments, as well as the renaming of the dedicated park land. The plaintiffs in the original Complaint were: Frederick W. Payne, Esq., John Bosley Yellott, Jr., Edward Dickinson Tayloe, II (the Plaintiff in this case), Betty Jane Franklin Phillips, Edward Bergen Fry, Virginia C. Amiss, Stefanie Marshall, Charles L. Weber, Jr., Lloyd Thomas Smith, Jr., the Virginia Division of the Sons of Confederate Veterans, Inc., Anthony M. Griffin, Britton Franklin Earnest, Sr., and The Monument Fund, Inc. The Complaint and resulting litigation are referred to hereinafter as the “Statue Litigation.”

11. Plaintiff Tayloe agreed to join the group of plaintiffs in the Statue Litigation because he is a City of Charlottesville resident, registered voter, and taxpayer, as well as a combat veteran in the Special Forces division of the U.S. Army who served during the Vietnam War. He is also a past-president of the Lee-Jackson Educational Foundation, which contributed money to the 1997-1999 restoration of the two statues. Plaintiff Tayloe “has a special interest in the protection and preservation of war

memorials and monuments located in the City, including those of Generals Lee and Jackson,” according to Paragraph 4 of the Statue Litigation complaint. Plaintiff Tayloe also feared that Charlottesville’s Vietnam Memorial would be removed or covered in the same fashion as the Civil War memorials if he did not join the suit and enforce the law protecting war memorials.

### **The Defamation**

12. The Profile written and published by Defendants C-ville Holdings, LLC and Provence and contributed to by Defendant Jalane Schmidt purported to investigate the motivation of the plaintiffs in the Statue Litigation. A true and correct online version of the Profile is attached to this complaint as Exhibit A. A true and correct print version of the Profile is attached as Exhibit B. Both Exhibits are incorporated herein and made a part of this Complaint.

13. The Profile describes its genesis as, “C-VILLE reached out to the plaintiffs to find out why they joined the suit [the Statue Litigation] and whether anything had changed for them since 2017.” Profile, p. 2. All page numbers herein refer to the online version of the Profile.

14. Immediately after describing Provence’s intention to find out “why [the plaintiffs in the Statue Litigation] joined the suit, Provence writes “Here’s what we found out:”. Id. The section concerning Plaintiff Tayloe immediately follows and constitutes the author’s answer to her question of why each plaintiff joined the suit. The Profile of Plaintiff Tayloe reads:

Tayloe, 76, comes from a First Family of Virginia that was one of the largest slave-owning dynasties in Virginia. His ancestor, John Tayloe II, called “one of the richest men of his day,” built Mount Airy plantation in Warsaw.



John Tayloe III, ancestor of lawsuit plaintiff Edward Dickinson Tayloe II, was one of the wealthiest men of his generation and “bred horses and slaves,” says the New York Times review of Richard Dunn’s *A Tale of Two Plantations*.

Tayloe’s great-great-grandfather, Benjamin Ogle Tayloe, invested in his brother Henry’s plan to start a cotton plantation in the Black Belt of Alabama in 1835, according to Richard Dunn’s 2015 book, *A Tale of Two Plantations: Slave Life and Labor in Jamaica and Virginia*.

An 1807 ban on importing slaves had opened the domestic slave trade for Virginia and other coastal states. The Tayloes had a surplus of enslaved laborers at their Mount Airy plantation and they sent them to the Deep South.

In 1838, the Tayloe brothers forced 57 slaves to walk 800 miles to Alabama, where most were sold. It was “the cruelest act that I have found recorded in the Tayloe papers,” writes Dunn.

Benjamin Ogle Tayloe continued to send rebellious slaves to Alabama as a warning to remaining slaves, says Dunn.

Between 1833 and 1854, the Tayloes marched 120 enslaved people to Alabama, and another 98 were sent during the Civil War, says Dunn. The



domestic migration of enslaved people separated families, made Virginia a major slave exporter, and further enriched the Tayloes.

Plaintiff Tayloe's father, Edward Thornton Tayloe IV, was vice-chair of the Charlottesville Redevelopment and Housing Authority when the decision was made to raze the African American community of Vinegar Hill over the objections of its residents, many of whom were unable to vote on the issue because of a poll tax.

And the plaintiff, a portfolio manager, was past president of the Lee-Jackson Foundation, which has an endowment of nearly \$4 million, according to 2014 IRS filings, and awards scholarships to students who write essays examining the legacies of the Confederate generals.

According to the lawsuit, Tayloe saw combat during the Vietnam War and served in Special Forces, and has a "special interest in the protection and preservation of war memorials in the city." The Lee-Jackson Foundation contributed money in 1997 to the restoration of the Lee and Jackson statues, says the suit.

A woman answering the phone at the Tayloe residence referred a reporter to spokesperson Weber.

The plaintiff's cousin, Tayloe Emery, who lives at Mount Airy plantation and who used to work at C-VILLE Weekly, bristles at a reporter's inquiry about whether family members share his uncle's enthusiasm for Confederate monuments. He writes in an email, "It's a shame that our family name is being dragged around by the media and that reporters have the audacity to ask me stupid questions, like 'do all of your family support Confederate monuments?'"

"The answer is of course, no. The vast majority of my Virginia family are against Confederate monuments and anything that pays lip service to white nationalism in any way, shape, or form. Though many of us do in fact disagree with this lawsuit, we still support family members who may think differently on the subject and we hope that through continued conversation that they might see things from a different perspective and understand the bitter feelings and abhorrent racism associated with Confederate monuments."

Says Schmidt, "For generations this family has been roiling the lives of black people, and this is what [plaintiff Tayloe] chooses to pursue."

15. The quoted account is defamatory in its entirety and is of and concerning Plaintiff Tayloe.

16. The Profile includes false and defamatory implications that arise naturally and clearly from its explicit statements. All of these implications occur in the context of the article's promise to tell readers "why [Tayloe]" joined the suit." Profile, p. 2.

- a) The first sentence in the section on Plaintiff Tayloe introduces him as the descendant of slave owners, stating, "Tayloe, 76, comes from a First Family of Virginia that was one of the largest slave-owning dynasties in Virginia." The first sentence of Plaintiff Tayloe's profile implies that his family's history of owning slaves is part of his motivation for joining the Statue Litigation.
- b) The Profile continues with a picture of John Tayloe III, one of Plaintiff Tayloe's ancestors. The caption reads: "John Tayloe III, ancestor of lawsuit plaintiff Edward Dickinson Tayloe II, was one of the wealthiest men of his generation and 'bred horses and slaves,' says the New York Times review of Richard Dunn's *A Tale of Two Plantations*." Id. The allegation that John Tayloe III bred horses and slaves is the only information shared about him in the entire Profile; his inclusion, absent any other details about his life, was intended to support the Profile's implication that Plaintiff Tayloe comes from a line of racists, and shares their views toward people of color.
- c) The Profile describes the Tayloe family's participation in the domestic slave trade almost two hundred years ago, between the years 1835 and 1854. Profile, at p. 3. Defendant Provence introduces Benjamin Ogle Tayloe as Plaintiff Tayloe's "great-great-grandfather." Id. at p. 2. The Profile quotes the book *A Tale of Two Plantations*, the author of which

observed that Benjamin Ogle Tayloe’s decision to force fifty-seven slaves to walk eight hundred miles to Alabama in 1838 was “the cruelest act that I have found recorded in the Tayloe papers...” Id. at p. 3. In the next sentence, the Profile explains that Benjamin Ogle Tayloe “continued to send rebellious slaves to Alabama as a warning to remaining slaves, says Dunn.” Id. These two sentences inform the reader that the Tayloe family acted cruelly to slaves and threatened them with more cruelty as a warning.

- d) With this central theme in place, Defendant Provence jumps forward in time to a more recent ancestor of Plaintiff Tayloe: “Plaintiff Tayloe’s father, Edward Thornton Tayloe IV, was vice-chair of the Charlottesville Redevelopment and Housing Authority when the decision was made to raze the African American community of Vinegar Hill over the objections of its residents, many of whom were unable to vote on the issue because of a poll tax.” Id. The Profile implies, without stating, that Edward Thornton Tayloe<sup>1</sup> was responsible for the decision to raze the African-American community of Vinegar Hill. In fact, the decision to raze Vinegar Hill and Cox’s Row was supported by referendum. By selectively citing facts in common and introducing stories about Edward Thornton Tayloe and Benjamin Ogle Tayloe in close proximity in the Profile, Defendant Provence implies that Edward Thornton Tayloe’s role in the razing of

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<sup>1</sup> The Profile incorrectly identifies Plaintiff Tayloe’s father as Edward Thornton Tayloe IV. In fact, he was known as Edward Thornton Tayloe, with no ordinal designation.

Vinegar Hill was alike to Benjamin Ogle Tayloe's forced slave marches in the early 1800's.

- e) More than halfway through the Profile, the author finally addresses the subject of the Profile: Edward Dickinson Tayloe, II. Defendant Provence spends almost no time exploring Plaintiff Tayloe's life, compressing his history and involvement in the Statue Litigation to a scant two paragraphs in the section, which numbers thirteen paragraphs, plus the photograph and caption. These paragraphs provide only skeletal details about Plaintiff Tayloe: that he is a portfolio manager; that he was past president of the "Lee-Jackson Foundation"; that he saw combat in Vietnam as a Special Forces soldier; that he has "a special interest in the protection and preservation of war memorials in the city"; and that the "Lee-Jackson Foundation" contributed money in 1997 to the restoration of the Lee and Jackson statues. *Id.* No information is provided about "whether anything had changed for [Plaintiff Tayloe] since 2017."
- f) Two additional paragraphs are devoted to quoting Plaintiff Tayloe's cousin, Tayloe Emery, who opposes the Statue Litigation.
- g) The final paragraph includes a quotation from Jalane Schmidt, which gives voice to the central theme of the author's profile on Plaintiff Tayloe: "For generations this family has been roiling the lives of black people, and this is what [plaintiff Tayloe] chooses to pursue." *Id.* Defendant Schmidt's reductive and unbalanced view definitively answers the author's posed question of "why [Plaintiff Tayloe] joined the suit." *Id.* Schmidt's

assertion is offered without refutation or counterpoint, and explains Provence's selective quotation of Tayloe family history.

17. These defamatory statements convey false and defamatory inferences, implications, and insinuations about Plaintiff Tayloe. Specifically, those inferences, implications, and insinuations are:

- a) Plaintiff Tayloe is a racist;
- b) Plaintiff Tayloe joined the Statue Litigation to antagonize people of color;
- c) Plaintiff Tayloe intends to "roil the lives of black people";

18. The Profile section for Plaintiff Tayloe is false and defamatory in its overall collective gestalt meaning, which is that Plaintiff Tayloe joined the Statue Litigation to continue his family's centuries-old tradition of antagonizing people of color. There are no other family histories included in the Profile on the other plaintiffs, and no other events cited from the distant past. The Defendants' decision to include Plaintiff Tayloe's family history was plainly intended to tie his involvement in the litigation to a history of, in their view and in Jalane Schmidt's view, systematic cruelty to and antagonism of people of color.

19. None of these false and defamatory implications are true.

- a) Plaintiff Tayloe is not a racist;
- b) Plaintiff Tayloe did not join the Statue Litigation to antagonize people of color, but rather because of his desire to see the undisturbed continuation of war memorials and because he rightfully demands that his elected representatives obey the rule of law;
- c) Plaintiff Tayloe has never intended to roil the lives of black people, and did not intend to do so by joining the Statue Litigation;

- d) Plaintiff Tayloe's family does not have a tradition or history of "roiling the lives of black people" or systematic cruelty towards people of color, and he has never taken part in any behavior meeting this description.

20. Defendants published the defamatory Profile with actual malice—knowledge of falsity or reckless disregard for truth or falsity—and negligence. The allegations in this Complaint dealing with fault demonstrate that the Defendants published their Profile with actual malice. All of the allegations of fault alleged below that meet the actual malice standard of knowledge of falsity or reckless disregard for truth or falsity thus also allege the lesser included fault level of negligence.

**Defendants' Conduct in Publishing the Profile**

21. All Defendants failed to reasonably investigate the defamatory statements, inferences, implications, and insinuations contained in the Profile. No Defendant or agent of any Defendant questioned Plaintiff Tayloe about "why he joined the suit." Defendant Provence made a cursory effort to contact Mr. Tayloe by phone, but such "checking-the-box" journalism does not constitute a defense to defamation. Because the claims specifically concerned Plaintiff Tayloe's subjective reasons for joining the suit, his perspective was essential to the story. Defendant Provence should have done more to arrange a meeting with Plaintiff Tayloe, to include submitting a precis of or summarizing to Tayloe what she intended to publish. Plaintiff Tayloe's refusal to discuss the lawsuit with Provence was prudent when viewed in the context of multi-plaintiff litigation in which one plaintiff-attorney, Mr. Charles Weber, was nominated as the spokesperson for all the Statue Litigation Plaintiffs. Defendant Schmidt did not even attempt to contact Plaintiff Tayloe to verify her claim about his efforts to "roil the lives of black people."

Her claim cites no factual support other than the fact that Plaintiff is a plaintiff in the Statue Litigation.

22. Defendants' defamatory statements about Plaintiff Tayloe supported a pre-selected narrative about racism as the driving force behind the Statue Litigation. In the preamble to the Profile, Defendant Schmidt states: "You've got the bow tie, upscale people tied to the League of the South people who want to secede and are slavery apologists." Id. at p. 1. Defendants Provence and C-ville Weekly tied Plaintiff Tayloe to League of the South slavery apologists by ordering their profiles first and second in the article and by falsely ascribing racist motives to Plaintiff Tayloe's decision to join the statue litigation. Defendants had no factual basis for their claims that Plaintiff Tayloe's involvement was racially motivated; in fact, they had factual evidence that his involvement was not racially motivated due to the paragraphs quoted from the Statue Litigation complaint explaining the basis for his standing.

23. Defendants failed to contact any friends or acquaintances of Plaintiff Tayloe who might have explained their view of his involvement in the litigation. According to the Profile, Defendant Provence asked Tayloe Emery, Plaintiff Tayloe's cousin, whether "...all of your family support Confederate monuments?" Defendant Provence's question is evidence that she intended the defamatory implication that Plaintiff Tayloe's participation in the Statue Litigation represents his family's values. Her loaded question also demonstrates her commitment to her pre-selected narrative of the Tayloes as a monolithic, bigoted, white Southern family. Defendants cited no information provided by any person in a position of authority or credibility that supported their defamatory statements, inferences, implications, and insinuations. Defendants' statements alleged in this Complaint were designed and intended to imply the defamatory meanings

attributed to them in this Complaint, and the Defendants' statements reasonably conveyed those defamatory implications to readers.

24. Prior to the publication of the Profile, Plaintiff Tayloe earned an excellent reputation in the Charlottesville community through his diligent work on behalf of his financial clients, his civic participation, his service as a Vietnam soldier, and respectful and fair treatment of all. Plaintiff Tayloe has lived in Charlottesville since 1958. He graduated from Lane High School in 1962, at which time the school was racially integrated. He enlisted in 1966 and served until 1969, including a tour in Vietnam, during which time he was awarded the Bronze Star for Valor, the Combat Infantryman's Badge, and the Army Commendation Medal – Vietnam. He retired from military service with a final rank of Sergeant and remained on reserve status until 1972. He earned a Bachelor of Science degree from East Carolina University in 1971 and completed coursework at the New York Institute of Finance in 1972. He worked as a stockbroker, trust investment officer, and financial planner for almost thirty years from 1971 to 2000. He presently serves his community as the Treasurer of the Perry Foundation, Inc. and as the Chairman of the Samuel Miller Endowment Fund for UVA. In the past, he served on the board of the American Cancer Society, the Blue Ridge School, as the Chairman of the Charlottesville Industrial Development Authority, and as President of the Lee-Jackson Educational Foundation. Plaintiff Tayloe has condemned racism for his entire life, and does so now. Plaintiff Tayloe is not a racist and any claim, suggestion, or implication that he is would be false and defamatory in its entirety.

25. The result of the publication of Defendants' false and defamatory statements was to accuse Plaintiff Tayloe of race-baiting in a political and social



atmosphere in Charlottesville, Virginia where, since August 12, 2017, there is virtually no worse label.

### **COUNT I – Defamation**

26. Paragraphs 1-25 of this Complaint are realleged and incorporated herein by reference.

27. The statements made by Defendants C-ville Holding, LLC, Melissa Provence, and Jalane Schmidt regarding Plaintiff Tayloe's involvement in the Statue Litigation, published on March 6, 2019 as alleged in this Complaint, are all statements of and concerning Edward Dickinson Tayloe, II; are defamatory per se; and were made either negligently and/or with actual malice, that is, with either knowledge of the falsity of the statements contained therein, and/or with reckless disregard for their truth.

28. Plaintiff Tayloe is a private figure and was so at the time of the defamatory statement.

29. Defendants either knew the statements they published regarding Plaintiff Tayloe and his alleged motivation for joining the Statue Litigation were false, or, believing them to be true, lacked reasonable grounds for such belief and/or acted negligently and/or recklessly in failing to ascertain the facts on which their statements relied, and therefore were negligent and/or reckless in publishing those statements of and concerning Plaintiff Tayloe.

30. Defendants published the false and defamatory statements of and concerning Plaintiff Tayloe either negligently or knowing of their falsehood or probable falsehood. The defamatory and false statements set forth in the preceding paragraphs of this Complaint created and made apparent to Defendants a substantial danger to Plaintiff Tayloe's reputation.

### **Damages and Prayer for Relief**

31. Paragraphs 1-30 of this Complaint are realleged and incorporated herein by reference.

32. As a direct and proximate result of Defendants' defamation, malice, negligence, and other tortious conduct alleged in this Complaint, Plaintiff Tayloe has been caused to suffer actual damages, including, but not limited to, impairment of reputation, diminished standing in the community, humiliation, injury and embarrassment, emotional distress, mental anguish, professional and business harm, loss of earning capacity, loss of income, loss and impairment to contracts, loss of business opportunities and expectancies and has been otherwise damaged.

33. Plaintiff Tayloe is entitled to presumed damages because the false and defamatory statements made by Defendants have injured and will injure him further in the practice of his business, trade, or profession, and thus are defamatory per se.

34. Plaintiff Tayloe is entitled to punitive damages as a result of Defendants' willful and malicious conduct and actions, as well as to his attorneys' fees and costs of this suit.

**WHEREFORE**, the Plaintiff, Edward Dickinson Tayloe, II, moves this Court for the entry of judgment against Defendants C-ville Holdings, LLC, Melissa Provence, and Jalane Schmidt, jointly and severally, in the sum of ONE MILLION DOLLARS (\$1,000,000.00) for compensatory damages, plus prejudgment interest thereon from March 6, 2019 pursuant to Virginia Code §8.01-382 Ann. (1950, as amended). Plaintiff moves this Court for the entry of judgment against each Defendant in the sum of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00) for punitive damages. Plaintiff also requests that he be awarded his attorneys' fees and costs of this suit.

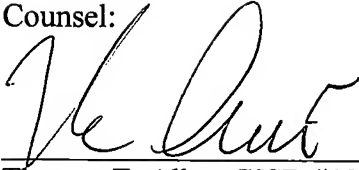
**TRIAL BY JURY IS DEMANDED.**

Respectfully Submitted,

**EDWARD DICKINSON TAYLOE, II**

*By Counsel*

Counsel:

A handwritten signature in black ink, appearing to read 'T. Albro', written over a horizontal line.

Thomas E. Albro (VSB #12812)  
Evan D. Mayo (VSB #89383)  
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## The plaintiffs: Who's who in the fight to keep Confederate monuments



(<https://www.c-ville.com/the-plaintiffs-whos-who-in-the-fight-to-keep-confederate-monuments/>) Sons of Confederate Veterans' Frank Earnest is unwavering in his belief that the Civil War was not about slavery, and the statues of generals Lee and Jackson honor defenders of the state. Photo: Timothy C. Wright

News (<https://www.c-ville.com/category/news/>)

Lisa Provence

(<https://www.c-ville.com/author/l>)

3/06/19 at 9:30 AM

Before August 12, 2017, many people thought of America's Confederate statues as harmless pieces of history—if they thought of them at all. Then the hate groups came to Charlottesville, ostensibly to protest the monuments' removal. The violent clashes that led to the death of Heather Heyer and the injury of dozens, and the sight of Confederate flags waving alongside Nazi flags, brought new urgency to the conversation about the meaning of Confederate symbols.

Cities like Baltimore and New Orleans quietly sent their monuments packing. Descendants of General Robert E. Lee and General Stonewall Jackson have said statues of their ancestors

have become tributes to white supremacy and need to go. And many brought up the words of Lee himself, who was opposed to memorializing the Confederacy after the war was over.

But one group of citizens remains unconvinced—the 13 plaintiffs in the lawsuit known as *Monument Fund v. Charlottesville*.

The people and organizations suing to stop the city from moving its Confederate statues straddle a spectrum that ranges from First Families of Virginia to a heritage organization that has members who were here August 12 with a secessionist, neo-Confederate gang.

“You’ve got the bow tie, upscale people tied to the League of the South people who want to secede and are slavery apologists,” says activist and UVA professor Jalane Schmidt.

Three years ago, some City Council members and local activists raised the idea of removing the Confederate statues from downtown. The city appointed a community commission that spent months examining the issue and ultimately presented City Council with two options to consider: relocating the statues to McIntire Park or re-contextualizing them by transforming the existing sites. In February 2017, City Council voted 3-2 to remove the Lee statue, and in April voted to sell it.

Then came August 12. Following the trauma that made Charlottesville a national hashtag, former “no” votes Mike Signer and Kathy Galvin joined Wes Bellamy, Kristin Szakos, and Bob Fenwick in saying that both the Lee and Jackson statues should go.

And that’s the issue in the lawsuit: whether councilors violated Virginia state law, which forbids the removal of war memorials, when they voted to send the Confederate generals on their way.

The lawsuit is approaching its second anniversary March 20. It’s scheduled to be in court March 11, but plaintiff spokesman Buddy Weber is dubious that it will go to trial then because Jones Day, one of the largest law firms in the world, is representing four of the five councilors and has asked for a jury trial.

In the two years the case has been active, Judge Rick Moore has ruled that the councilors do not have immunity and are personally liable for voting to remove the monuments.

In January, Delegate David Toscano carried a bill to allow localities to decide for themselves whether they want Confederate statues in their midst. The bill was killed in subcommittee.

While much has been written about—and much blame thrown at—those who first raised the idea of removing Confederate monuments from the center of town, very little attention has been paid to those still fighting the city’s decision. C-VILLE reached out to the plaintiffs to find out why they joined the suit and whether anything had changed for them since 2017.

Here’s what we found out:

## Edward Dickinson Tayloe II

Tayloe, 76, comes from a First Family of Virginia that was one of the largest slave-owning dynasties in Virginia. His ancestor, John Tayloe II, called “one of the richest men of his day,” built Mount Airy plantation in Warsaw.



([http://www.c-ville.com/wp-content/uploads/2019/03/John\\_Tayloe\\_III\\_GilbertStuart.jpg](http://www.c-ville.com/wp-content/uploads/2019/03/John_Tayloe_III_GilbertStuart.jpg)).

John Tayloe III, ancestor of lawsuit plaintiff Edward Dickinson Tayloe II, was one of the wealthiest men of his generation and “bred horses and slaves,” says the New York Times review of Richard Dunn’s *A Tale of Two Plantations*.

Tayloe’s great-great-grandfather, Benjamin Ogle Tayloe, invested in his brother Henry’s plan to start a cotton plantation in the Black Belt of Alabama in 1835, according to Richard Dunn’s 2015 book, *A Tale of Two Plantations: Slave Life and Labor in Jamaica and Virginia*.

An 1807 ban on importing slaves had opened the domestic slave trade for Virginia and other coastal states. The Tayloes had a surplus of enslaved laborers at their Mount Airy plantation and they sent them to the Deep South.

In 1838, the Tayloe brothers forced 57 slaves to walk 800 miles to Alabama, where most were sold. It was “the cruelest act that I have found recorded in the Tayloe papers,” writes Dunn.

Benjamin Ogle Tayloe continued to send rebellious slaves to Alabama as a warning to remaining slaves, says Dunn.

Between 1833 and 1854, the Tayloes marched 120 enslaved people to Alabama, and another 98 were sent during the Civil War, says Dunn. The domestic migration of enslaved people separated families, made Virginia a major slave exporter, and further enriched the Tayloes.

Plaintiff Tayloe’s father, Edward Thornton Tayloe IV, was vice-chair of the Charlottesville Redevelopment and Housing Authority when the decision was made to raze the African American community of Vinegar Hill over the objections of its residents, many of whom were unable to vote on the issue because of a poll tax.

And the plaintiff, a portfolio manager, was past president of the Lee-Jackson Foundation, which has an endowment of nearly \$4 million, according to 2014 IRS filings, and awards scholarships to students who write essays examining the legacies of the Confederate generals.

According to the lawsuit, Tayloe saw combat during the Vietnam War and served in Special Forces, and has a “special interest in the protection and preservation of war memorials in the city.” The Lee-Jackson Foundation contributed money in 1997 to the restoration of the Lee and Jackson statues, says the suit.

A woman answering the phone at the Tayloe residence referred a reporter to spokesperson Weber.

The plaintiff’s cousin, Tayloe Emery, who lives at Mount Airy plantation and who used to work at C-VILLE Weekly, bristles at a reporter’s inquiry about whether family members share his uncle’s enthusiasm for Confederate monuments. He writes in an email, “It’s a shame that our family name is being dragged around by the media and that reporters have the audacity to ask me stupid questions, like ‘do all of your family support Confederate monuments?’

“The answer is of course, no. The vast majority of my Virginia family are against Confederate monuments and anything that pays lip service to white nationalism in any way, shape, or form. Though many of us do in fact disagree with this lawsuit, we still



support family members who may think differently on the subject and we hope that through continued conversation that they might see things from a different perspective and understand the bitter feelings and abhorrent racism associated with Confederate monuments.”

Says Schmidt, “For generations this family has been roiling the lives of black people, and this is what [plaintiff Tayloe] chooses to pursue.”

## Anthony Griffin

## Britton Franklin Earnest

### *Virginia Division, Sons of Confederate Veterans*

Smithfield resident Tony Griffin, 57, is a Sons of Confederate Veterans “commander,” and Frank Earnest, who lives in Virginia Beach, holds the title “heritage defense coordinator.”

Earnest, 63, has been representing the Sons for almost 30 years, he says. “We are the bloodline descendants of the Confederate Army,” and when people start “mudslinging” about the Confederacy, they’re “talking about my great-great-grandfather.”

The Sons of Confederate Veterans contributed money to the 1997 restoration of the Lee and Jackson statues, and to the litigation, according to the lawsuit. “We don’t want to see monuments to defending our state removed,” says Earnest.

Earnest was in town August 11, 2017, for a Katie Couric interview and then got the heck out of Dodge. “It’s pretty bad when you know a riot is coming,” he says.

But the violence and open white nationalism of the Unite the Right rally have not changed Earnest’s mind about Confederate monuments. “Absolutely not,” he says. “It’s not something that comes or goes. They honor our ancestors.”

And he maintains the SCV has nothing to do with the white supremacist and neo-Nazi groups that showed up here, adding that it advised its members to stay away. “We have always denounced racist groups over our hundred-year history,” he says. “We have nothing to do with those people.”

Yet some Sons of Confederate Veterans members were here and hold dual affiliations with League of the South, which describes itself as a “Southern nationalist organization.” Its website honors John Wilkes Booth for his service “to the South and humanity.”



“We’re an organization of thousands,” says Earnest when asked about brothers George and Gregory Randall. He believes they’re still SCV members. “I don’t think we determined anyone in SCV did anything that rose to the level of complete expulsion.”

And, he says, Sons of Confederate Veterans are “in no way associated” with League of the South.



([http://www.c-ville.com/wp-content/uploads/2019/03/Randall\\_Rodney-Dunning.jpg](http://www.c-ville.com/wp-content/uploads/2019/03/Randall_Rodney-Dunning.jpg))

Sons of Confederate Veterans member George Randall carries the flag of neo-Confederate League of the South at Unite the Right. Photo: Rodney Dunning

Gregory Randall, who portrays General Stonewall Jackson in Civil War reenactments, and his twin George were in Charlottesville August 12 with League of the South.

George Randall, who lives near Fredericksburg, says he keeps his memberships separate and describes Sons of Confederate Veterans as a “historical” group while League of the South is “more political.”

Of the latter, he explains, “We’re secessionists.” He cites his ancestors and the Lost Cause narrative in objecting to Confederate monument removal. “We were invaded.” And he insists, “The war had nothing to do with slavery.”

He also blames Wes Bellamy for the whole monument mess, and says Bellamy is a “black supremacist.”

Says Randall, “I’m tired of everything being about race, race, race.” He objects to being called a white supremacist for wanting to “protect our culture. If you stand up for your people, you’re a Nazi or racist. It has nothing to do with hate.”

Randall was here for a lawsuit hearing in 2017 to provide security for an unnamed person, he says, but did not seem keen on returning for the upcoming court date because the last time he was here, his tires were slashed.

“I think Charlottesville sucks,” he says, denouncing “anarchist communists” and “antifa” whom he says threw urine and feces at him and his League of the South colleagues August 12. Says Randall, “You can’t wear a MAGA hat. I think it’s a crying shame.”

“Did we have a couple of rogue members in Charlottesville?” queries Earnest. “Probably, but we told them not to come.”

Is there a perception that the Sons of Confederate Veterans is a racist organization? “How much more prejudiced and bigoted can you be to ask that?” says Earnest, who has had a lot of experience talking to the press, not all of it to his satisfaction.

For instance, he was not pleased with a November 28 Washington Post story about him titled “Sins of the Fathers: The Confederacy was built on slavery. How can so many Southern whites believe otherwise?”

“I was very disappointed,” he says.

## **Charles L. Weber Jr.**

Buddy Weber was in the U.S. Navy for 27 years, serving as a combat pilot before getting his law degree from UVA in 1998. He was chair of the city GOP, and in 2013, he ran for City Council with former city cop Mike Farruggio.



([http://www.c-ville.com/wp-content/uploads/2019/03/DSC\\_2585.jpg](http://www.c-ville.com/wp-content/uploads/2019/03/DSC_2585.jpg))

Attorney and Vietnam War vet Buddy Weber worries that if memorials to unpopular wars can be removed, Vietnam War monuments could be next.

Photo: Elli Williams

Weber, 73, initially was appointed defense attorney for Heather Heyer's murderer, James Fields, but cited his role in the lawsuit as a conflict of interest.

He says he signed on as a plaintiff for two reasons. As a lawyer and firm believer in the rule of law, "it's my earnest belief City Council had violated the law, whether you believe the statues should stay or go," he says.

And as a veteran of the "very unpopular" Vietnam War, he worries that those memorials could be next, negating the sacrifice citizens made of life and limb to defend this country. Virginia state law "protects these memorials from the shifting tide of public opinion," he says.

If the General Assembly decides to change that, it can, he says, but he thinks Toscano's bill to allow localities to make their own decisions about Confederate monuments is "a cop out."

Weber also distances himself from those who showed up to support the Confederate monuments in 2017, taking the battle to court instead. “We do it without lighting tiki torches,” he says. “I don’t personally feel tarred because we have no association with them.”

## Lloyd Smith

The founding partner of law firm Tremblay and Smith and a founder of Guaranty Bank and Virginia Broadcasting, the parent company of today’s NBC29, died last summer at age 85.

From 1997 through 1999, the former Marine represented a private group of citizens who raised money to restore the Lee and Jackson statues. That was a major reason he signed onto the lawsuit, says his son, Garrett Smith.

“The city agreed to maintain the statues in perpetuity,” he says, adding that his father always felt that when he represented people as clients, he continued to represent them.

Lloyd Smith “had a great love of history” and would visit Civil War battle sites, says Garrett Smith. “He believed the facts of the Civil War and the oppression of enslaved people was a history that needed to be told and understood.”

According to Smith, when Weber and attorney Fred Payne were helping to organize the lawsuit, they knew his father as “a Democrat and he represented a different group. He wasn’t a hardcore conservative Republican.”

He says his father was saddened by the events of August 2017, but Garrett Smith doesn’t think that changed his father’s mind about the statues. “The city had become a flashpoint for a larger national debate.”

## Frederick W. Payne

Attorney Fred Payne declined to comment for this story. In the first court hearing on the case May 2, 2017, Payne testified as an expert on Civil War uniforms because he “grew up with Confederate insignias since he was 10 years old.”





([http://www.c-ville.com/wp-content/uploads/2019/03/news-payne\\_lisaprovence.jpg](http://www.c-ville.com/wp-content/uploads/2019/03/news-payne_lisaprovence.jpg))

Fred Payne, an attorney and lawsuit plaintiff, has testified as an expert on Civil War uniforms. Staff photo.

The founder of Payne and Hodous in 1992, he serves as county attorney for Fluvanna, and was deputy county attorney for Albemarle from 1974 to 1987. He was also was an assistant commonwealth's attorney for the county in 1979, according to the Payne and Hodous website.

Payne graduated magna cum laude from Yale, and got his law degree at UVA. He's been president of the Charlottesville Albemarle Bar Association, as well as head of the city and county criminal bar association.

One of Payne's better-known cases was his defense of widow Shirley Presley, who, in 2002, strung razor wire to block Rivanna Trail hikers from a path on her property along the river. The Rivanna Trail Foundation neglected to get her permission or an easement for that portion of the trail. A judge ruled in Presley's favor on a code violation, and she settled her \$1.5 million lawsuit against the city and foundation in 2008.

## John Bosley Yellott Jr.

### *The Monument Fund*

Jock Yellott is the fourth plaintiff in the lawsuit who's an attorney. He's also executive director of the Monument Fund, a nonprofit formed in October 2016 to help fund the statues' defense. In 2017, it raised nearly \$119,000, according to its IRS 990 form.

Because of his fundraising, Yellott, 64, has a financial interest in the outcome of the suit, and he conducts history tours describing the monuments, according to the complaint. He testified that he

walks his dog through Market Street or Court Square parks daily. He did not return C-VILLE's call.

## Betty Jane Franklin Phillips

Phillips, 82, is described in court documents as a collateral descendant of Paul Goodloe McIntire, who donated the controversial statues and the once-segregated parks they inhabit, along with a number of other monuments, parks, and buildings around town. The Keswick resident is a Lane High School graduate. She did not respond to phone messages from C-VILLE.

## Edward Bergen Fry

Ned Fry, 31, is the youngest of the plaintiffs. His great uncle Henry Shrady was the sculptor McIntire hired to create the Lee statue, and Shrady also did the Ulysses S. Grant statue in Washington near the Capitol.

Fry is himself a sculptor and graduated with a degree in sculpture from Virginia Commonwealth University. The CHS grad did not get back to us to discuss further his participation in the lawsuit, but at a 2016 Blue Ribbon Commission on Race, Memorials and Public Spaces hearing, he said he was in favor of keeping the statues because, "They are historical works of art and, more importantly, because Henry Shrady is my great-great-great uncle."

## Virginia C. Amiss

The 94-year-old plaintiff remembers riding the trolley from downtown to the Rotunda when she was 7 years old to take violin lessons, and that's when she decided she wanted to study nursing at UVA, she wrote to Virginia magazine in 2010. She graduated in 1946, and worked at UVA and in Houston, as an operating room supervisor.

Amiss had had dental surgery and didn't feel up to talking when C-VILLE reached her, and she did not respond a follow-up call.

While she is suing to keep the Confederate statues, she was not a fan of other sculptures installed around town by the city's Art in Place program, a nonprofit dedicated to public art. In 2005, she asked City Council to eliminate the \$5,000 it gave to the program. As Cvilleindymedia.org reported, "At the last meeting, her immortal words rang out: 'Rearranged junk is still junk.'"

On Facebook, she supports prayer in school—and in the White House.

And through marriage, Amiss is related to Unite the Right organizer Jason Kessler. According to Ancestry.com and U.S. Census records, her husband, Lester "Randy" Amiss was first

cousin to Kessler's great-grandfather, LaSalle Norvell.

## Stefanie Marshall

Albemarle resident Marshall is chair of the Monument Fund and has "personally expended money and effort in cleaning graffiti from the Lee monument in 2011 and 2015," says the complaint.

She and her husband own construction company M3, which specializes in masonry. The company supports the Fraternal Order of Police, Live Arts, The Paramount Theater, Albemarle Charlottesville Historical Society and various local charitable organizations, according to its website.

The lawsuit is not the first time the county resident has had a problem with city government. In 2016, she took issue with City Council's decision to honor Khizr and Ghazala Khan, and told council: "It seems to me that in order for a Gold Star family to be honored and recognized by the current City Council, they must speak at the Democratic National Convention. This is not appropriate, nor is it acceptable. It reeks of choosing to honor specific families or individuals because they fit your narrative."

Marshall, 52, did not respond to a message from C-VILLE.

*Correction March 7: Tayloe Emery is a cousin, not nephew of Edward Tayloe, and this Stefanie Marshall did not graduate from Albemarle High.*

9 Comments

Sort by Newest



Add a comment...



**Marvin Edwards**

Article 3, Section 3, of the U.S. Constitution says:  
"Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. "

Confederate generals, despite what you might have been led to believe, committed treason against the United States of America. They levied war against our country.

Slavery and treason are morally and legally wrong. To erect statues to celebrate them is a public obscenity, which we have tolerated only in our ignorance and to avoid confronting our guilt.

Like · Reply · 1 · 10w




**Reyn Mansson**

Does this represent an article meant to spread the

Does this appear to be an article meant to smear the lawsuit's participants to anyone else? Listing all the companies they own and charities they support and their various ancestors and relatives, is that supposed to bring pressure to drop out or something?

Any article on the controversy that doesn't lay blame at the feet of Wes Bellemy is biased in my opinion.


I used to spend most summer afternoons in Lee Park reading books from the library just across the street. Although I now live in Dallas, I follow this issue closely and see from afar the damage it has done to the city's reputation.

Like · Reply ·  1 · 10w

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**Matityahu Soa**


Establish a Confederacy museum in Richmond and move the statues there. They're even taking down statues by 47-0 votes in Mississippi nowadays. Come on folks. Let's move on and join forces in focusing on our enemies overseas who would annihilate us regardless of how we perceive what happened here 157 years ago...

Like · Reply ·  3 · 11w




**Joyce Stevens**

No. The monuments were built to stand for public viewing. It would cost a fortune to move them and cost to enter the museum.

Like · Reply ·  1 · 11w

**Rick Borden**

The War Memorials should stay just like any other War Memorial. They were put in place to remember those who gave their lives on the field of battle and Political victimizing has no place alongside a man's ultimate sacrifice.

Like · Reply ·  1 · 11w

**Rick Borden**

I hadn't heard anything about Mississippi voting 47-0 to take down the War Memorials! That's astonishing.

Like · Reply · 11w



**James F. Simcoe**

Eventually, we will get around to discussing the general the men who enlisted from the Albemarle area, the 19th Virginia, Along with Lee, it was Longstreet they gave their deepest emotion to, James Longstreet, Corp commander, NOT Jackson. There was resentment amongst local veterans after the war over the 'Western', the Shennandoah contingent of the Southern Historicial Society, presenting only one face to the world, i.e., Lee/Jackson. But then Longstreet led the integrated city militia of New Orleans in 1870 outnumbered 3 to 1 against an irregular state militia determined to throw out



Reconstru... See More

Like · Reply · 11w



**Judy Mills Werner**

Wow! Honestly Lisa, could you be any more liberal? "Before August 12, 2017, many people thought of America's Confederate statues as harmless pieces of history—if they thought of them at all. Then the hate groups came to Charlottesville, ostensibly to protest the monuments' removal." You write as though the statues were there (as they've been for 100 or so years) then BOOM the hate groups came to Charlottesville. You conveniently left out facts like Wes Bellamy started the statue adversity saying his female relative walked past the Lee statue in Lee Park and felt scared. Bellamy pushed for the... See More

Like · Reply · 3 · 11w · Edited



**Joyce Stevens**

Yes she was not impartial.

Like · Reply · 2 · 11w



**Rick Borden**

Very well said.

Like · Reply · 2 · 11w



**Carole Thorpe**

I am consistently impressed with Lisa's reporting, but less so with this report. There were many mitigating factors which you filled in (thank you) that need to be known to fully understand the complexities of the situation. May I add the ridiculous Bellamy-led boycott of Bella's Restaurant (which failed magnificently) in his personal retribution against something an owner had to say about the KKK/BLM on social media. All of this feuled an atmosphere that created a volatile hotbed that cannot be ignored when examining this matter.


Like · Reply · 1 · 10w · Edited

Show 1 more reply in this thread



**Karl Burkhalter**


Another Propaganda piece meant to forward fallacy that the North was righteous in opposing Secession and Slavery, while the South was evil fighting for White Supremacy. But Northern Banks holding slaves as collateral to facilitate their number one cash export, textiles, not only refused to forgive slave loans to facilitate emancipation, they rented out slaves taken in foreclosure to RRs where they were worked to death, not freed. Union Armies committed genocide against Native Americans and Blacks at death camps like Bosque Redondo and Devil' Punchbowl, because the North wanted to be free of Minorities not free for Minorities.

Like · Reply ·  3 · 11w



**Joyce Stevens**


Well said

Like · Reply ·  1 · 11w



**Rick Borden**

Very interesting! Thanks!

Like · Reply ·  1 · 11w



**Gordon Dean Flick**


More trash writing. I didn't see anywhere in the article you write about the fact it's illegal under Virginia State Law to move these statues.

Like · Reply ·  5 · 11w · Edited



**Rick Borden**

How have the War Memorials contributed to people's poor choices? How about the rock at the far edge of town? Should that also be used as vehicle for racial victimization? The Memorials were put in place for people to heal from the loss of sons, fathers, brothers, uncles, cousins. It is a historical factoid that most of your Confederate Infantry did not own slaves. In fact a sizable portion weren't much better off than slaves. They were duped by the Elites of that day and how easy would this have been? None owned TVs, cellphones or even recieved newspapers by which to make informed decisi... See More

Like · Reply ·  3 · 11w



**Will Lyster**


I would like to know how the author of this article determined that the plaintiff, Stefanie Marshall attended or graduated from Albemarle High School.

I see that a Stefanie Marshall is listed in the 1983 AHS Yearbook "The Peer", but surely she would have still been using her maiden name at that time.

[https://issuu.com/stanmaupin/docs/1983\\_finalpeer](https://issuu.com/stanmaupin/docs/1983_finalpeer)

One would think that a journalist with the experience that Lisa Provence has would have done more thorough research and try to get it right before rushing an article to publication.

I wonder what else is incorrect in this article...?

Like · Reply ·  9 · 11w



**Lloyd Snook**

Do we assume from your question that you know that the person who is a plaintiff here did NOT graduate from AHS? You don't actually say that, but your criticism of Lisa makes no sense unless you know that to be true. In which case, perhaps you should say so.

Like · Reply · 5 · 11w



**Will Lyster**

I'm under no obligation to justify my comment

EXHIBIT  
B

State Landmark  
**Cville**



# LAST STAND

*The plaintiffs defending Charlottesville's  
Confederate monuments*

MARCH 6 - 12, 2019 CHARLOTTESVILLE'S NEWS AND ARTS WEEKLY C-VILLE.COM FREE

JEFF DREW



**#METOO EFFECT** Local sexual assault responders see more reports PAGE 11

**CODE RED?** Lots of new downtown workers, but little new parking PAGE 12

**FIRST LOOK** Our new Living editor reviews Little Star on West Main PAGE 27



TIMOTHY C. WRIGHT



# The plaintiffs

## Who's who in the fight to keep Confederate monuments

By Lisa Provence  
[lisa@c-ville.com](mailto:lisa@c-ville.com)

Sons of Confederate Veterans' Frank Earnest (above) is unwavering in his belief that the Civil War was not about slavery, and the statues of generals Lee and Jackson honor defenders of the state.

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Cities like Baltimore and New Orleans quietly sent their monuments packing. Descendants of General Robert E. Lee and General Stonewall Jackson have said statues of their ancestors have become tributes to white supremacy and need to go. And many brought up the words of Lee himself, who was opposed to memorializing the Confederacy after the war was over.

But one group of citizens remains unconvinced—the 13 plaintiffs in the lawsuit known as *Monument Fund v. Charlottesville*.



**T**he people and organizations suing to stop the city from moving its Confederate statues straddle a spectrum that ranges from First Families of Virginia to a heritage organization that has members who were here August 12 with a secessionist, neo-Confederate gang.

"You've got the bow tie, upscale people tied to the League of the South people who want to secede and are slavery apologists," says activist and UVA professor Jalane Schmidt.

Three years ago, some City Council members and local activists raised the idea of removing the Confederate statues from downtown. The city appointed a community commission that spent months examining the issue and ultimately presented City Council with two options to consider: relocating the statues to McIntire Park or re-contextualizing them by transforming the existing sites. In February 2017, City Council voted 3-2 to remove the Lee statue, and in April voted to sell it.

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In January, Delegate David Toscano carried a bill to allow localities to decide for themselves whether they want Confederate statues in their midst. The bill was killed in subcommittee.

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Here's what we found out:

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Tayloe, 76, comes from a First Family of Virginia that was one of the largest slave-owning dynasties in Virginia. His ancestor, John Tayloe II, called "one of the richest men of his day," built Mount Airy plantation in Warsaw.

Tayloe's great-great-grandfather, Benjamin Ogle Tayloe, invested in his brother Henry's plan to start a cotton plantation in the Black Belt of Alabama in 1835, according to Richard Dunn's 2015 book, *A Tale of Two Plantations: Slave Life and Labor in Jamaica and Virginia*.

An 1807 ban on importing slaves had opened the domestic slave trade for Virginia and other coastal states. The Tayloes had a surplus of enslaved laborers at their

Mount Airy plantation and they sent them to the Deep South.

In 1838, the Tayloe brothers forced 57 slaves to walk 800 miles to Alabama, where most were sold. It was "the cruelest act that I have found recorded in the Tayloe papers," writes Dunn.

Benjamin Ogle Tayloe continued to send rebellious slaves to Alabama as a warning to remaining slaves, says Dunn.

Between 1833 and 1854, the Tayloes marched 120 enslaved people to Alabama, and another 98 were sent during the Civil War, says Dunn. The domestic migration of enslaved people separated families, made Virginia a major slave exporter, and further enriched the Tayloes.

Plaintiff Tayloe's father, Edward Thornton Tayloe IV, was vice-chair of the Charlottesville Redevelopment and Housing Authority when the decision was made to raze the African American community of Vinegar Hill over the objections of its residents, many of whom were unable to vote on the issue because of a poll tax.

And the plaintiff, a portfolio manager, was past president of the Lee-Jackson Foundation, which has an endowment of nearly \$4 million, according to 2014 IRS filings, and awards scholarships to students who write essays examining the legacies of the Confederate generals.

According to the lawsuit, Tayloe saw combat during the Vietnam War and served in Special Forces, and has a "special interest in the protection and preservation of war memorials in the city." The Lee-Jackson Foundation contributed money in 1997 to the restoration of the Lee and Jackson statues, says the suit.

A woman answering the phone at the Tayloe residence referred a reporter to spokesperson Weber.

The plaintiff's nephew, Tayloe Emery, who lives at Mount Airy plantation and who used to work at C-VILLE Weekly, bristles at a reporter's inquiry about whether family members share his uncle's enthusiasm for Confederate monuments. He writes in an email, "It's a shame that our family name is being dragged around by the media and that reporters have the audacity to ask me stupid questions, like 'do all of your family support Confederate monuments?'"

"The answer is of course, no. The vast majority of my Virginia family are against Confederate monuments and anything that pays lip service to white nationalism in any way, shape, or form. Though many of us do in fact disagree with this lawsuit, we still support family members who may think differently on the subject and we hope that through continued conversation that they might see things from a different perspective and understand the bitter feelings and abhorrent racism associated with Confederate monuments."

Says Schmidt, "For generations this family has been roiling the lives of black people, and this is what [plaintiff Tayloe] chooses to pursue."

## Anthony Griffin Britton Franklin Earnest

*Virginia Division, Sons of Confederate Veterans*

Smithfield resident Tony Griffin, 57, is a Sons of Confederate Veterans "commander," and



Sons of Confederate Veterans member George Randall carries the flag of neo-Confederate League of the South at Unite the Right.

Frank Earnest, who lives in Virginia Beach, holds the title "heritage defense coordinator."

Earnest, 63, has been representing the Sons for almost 30 years, he says. "We are the bloodline descendants of the Confederate Army," and when people start "mudslinging" about the Confederacy, they're "talking about my great-great-grandfather."

The Sons of Confederate Veterans contributed money to the 1997 restoration of the Lee and Jackson statues, and to the litigation, according to the lawsuit. "We don't want to see monuments to defending our state removed," says Earnest.

Earnest was in town August 11, 2017, for a Katie Couric interview and then got the heck out of Dodge. "It's pretty bad when you know a riot is coming," he says.

But the violence and open white nationalism of the Unite the Right rally have not changed Earnest's mind about Confederate monuments. "Absolutely not," he says. "It's not something that comes or goes. They honor our ancestors."

And he maintains the SCV has nothing to do with the white supremacist and neo-Nazi groups that showed up here, adding that it advised its members to stay away. "We have always denounced racist groups over our hundred-year history," he says. "We have nothing to do with those people."

Yet some Sons of Confederate Veterans members were here and hold dual affiliations with League of the South, which describes itself as a "Southern nationalist organization." Its website honors John Wilkes Booth for his service "to the South and humanity."

"We're an organization of thousands," says Earnest when asked about brothers George and Gregory Randall. He believes they're still SCV members. "I don't think we determined anyone in SCV did anything that rose to the level of complete expulsion."

And, he says, Sons of Confederate Veterans are "in no way associated" with League of the South.

Gregory Randall, who portrays General Stonewall Jackson in Civil War reenactments, and his twin George were in Charlottesville August 12 with League of the South.

George Randall, who lives near Fredericksburg, says he keeps his memberships separate and describes Sons of Confederate Veterans as a "historical" group while League of the South is "more political."

Of the latter, he explains, "We're secessionists." He cites his ancestors and the Lost Cause narrative in objecting to Confederate monument removal. "We were invaded." And he insists, "The war had nothing to do with slavery."

He also blames Wes Bellamy for the whole monument mess, and says Bellamy is a "black supremacist."

Says Randall, "I'm tired of everything being about race, race, race." He objects to being called a white supremacist for wanting to "protect our culture. If you stand up for your people, you're a Nazi or racist. It has nothing to do with hate."

Randall was here for a lawsuit hearing in 2017 to provide security for an unnamed person, he says, but did not seem keen on returning for the upcoming court date because the last time he was here, his tires were slashed.

"I think Charlottesville sucks," he says, denouncing "anarchist communists" and "antifa" whom he says threw urine and feces at him and his League of the South colleagues August 12. Says Randall, "You can't wear a MAGA hat. I think it's a crying shame."

"Did we have a couple of rogue members in Charlottesville?" queries Earnest. "Probably, but we told them not to come."

Is there a perception that the Sons of Confederate Veterans is a racist organization? "How much more prejudiced and bigoted can you be to ask that?" says Earnest, who has had a lot of experience talking to the press, not all of it to his satisfaction.

For instance, he was not pleased with a November 28 Washington Post story about him titled "Sins of the Fathers: The Confederacy was built on slavery. How can so many Southern whites believe otherwise?"

"I was very disappointed," he says.

## Charles L. Weber Jr.

Buddy Weber was in the U.S. Navy for 27 years, serving as a combat pilot before getting his law degree from UVA in 1998. He was chair of the city GOP, and in 2013, he ran for City Council with former city cop Mike Farruggio.

Weber, 73, initially was appointed defense attorney for Heather Heyer's murderer, James Fields, but cited his role in the lawsuit as a conflict of interest.

He says he signed on as a plaintiff for two reasons. As a lawyer and firm believer in the



rule of law, "it's my earnest belief City Council had violated the law, whether you believe the statues should stay or go," he says.

And as a veteran of the "very unpopular" Vietnam War, he worries that those memorials could be next, negating the sacrifice citizens made of life and limb to defend this country. Virginia state law "protects these memorials from the shifting tide of public opinion," he says.

If the General Assembly decides to change that, it can, he says, but he thinks Toscano's bill to allow localities to make their own decisions about Confederate monuments is "a cop out."

Weber also distances himself from those who showed up to support the Confederate monuments in 2017, taking the battle to court instead. "We do it without lighting tiki torches," he says. "I don't personally feel tarred because we have no association with them."

## Lloyd Smith

The founding partner of law firm Tremblay and Smith and a founder of Guaranty Bank and Virginia Broadcasting, the parent company of today's NBC29, died last summer at age 85.

From 1997 through 1999, the former Marine represented a private group of citizens who raised money to restore the Lee and Jackson statues. That was a major reason he signed onto the lawsuit, says his son, Garrett Smith.

"The city agreed to maintain the statues in perpetuity," he says, adding that his father always felt that when he represented people as clients, he continued to represent them.

Lloyd Smith "had a great love of history" and would visit Civil War battle sites, says Garrett Smith. "He believed the facts of the Civil War and the oppression of enslaved people was a history that needed to be told and understood."

According to Smith, when Weber and attorney Fred Payne were helping to organize the lawsuit, they knew his father as "a Democrat and he represented a different group. He wasn't a hardcore conservative Republican."

He says his father was saddened by the events of August 2017, but Garrett Smith doesn't think that changed his father's mind about the statues. "The city had become a flashpoint for a larger national debate."

## Frederick W. Payne

Attorney Fred Payne declined to comment for this story. In the first court hearing on the case May 2, 2017, Payne testified as an expert on Civil War uniforms because he "grew up with Confederate insignias since he was 10 years old."

The founder of Payne and Hodous in 1992, he serves as county attorney for Fluvanna, and was deputy county attorney for Albemarle from 1974 to 1987. He was also was an assistant commonwealth's attorney for the county in 1979, according to the Payne and Hodous website.

Payne graduated magna cum laude from Yale, and got his law degree at UVA. He's been president of the Charlottesville Albemarle Bar Association, as well as head of the city and county criminal bar association.

One of Payne's better-known cases was his defense of widow Shirley Presley, who, in 2002, strung razor wire to block Rivanna

Trail hikers from a path on her property along the river. The Rivanna Trail Foundation neglected to get her permission or an easement for that portion of the trail. A judge ruled in Presley's favor on a code violation, and she settled her \$1.5 million lawsuit against the city and foundation in 2008.

## John Bosley Yellott Jr.

### The Monument Fund

Jock Yellott is the fourth plaintiff in the lawsuit who's an attorney. He's also executive director of the Monument Fund, a nonprofit formed in October 2016 to help fund the statues' defense. In 2017, it raised nearly \$119,000, according to its IRS 990 form.

Because of his fundraising, Yellott, 64, has a financial interest in the outcome of the suit, and he conducts history tours describing the monuments, according to the complaint. He testified that he walks his dog through Market Street or Court Square parks daily. He did not return C-VILLE's call.

## Betty Jane Franklin Phillips

Phillips, 82, is described in court documents as a collateral descendant of Paul Goodloe McIntire, who donated the controversial statues and the once-segregated parks they inhabit, along with a number of other monuments, parks, and buildings around town. The Keswick resident is a Lane High School graduate. She did not respond to phone messages from C-VILLE.

## Edward Bergen Fry

Ned Fry, 31, is the youngest of the plaintiffs. His great uncle Henry Shady was the sculptor McIntire hired to create the Lee statue, and Shady also did the Ulysses S. Grant statue in Washington near the Capitol. Fry is himself a sculptor and graduated with a degree in sculpture from Virginia Commonwealth University. The CHS grad did not get back to us to discuss further his participation in the lawsuit, but at a 2016 Blue Ribbon Commission on Race, Memorials and Public Spaces hearing, he said he was in favor of keeping the statues because, "They are historical works of art and, more importantly, because Henry Shady is my great-great-great uncle."

## Virginia C. Amiss

The 94-year-old plaintiff remembers riding the trolley from downtown to the Rotunda when she was 7 years old to take violin lessons, and that's when she decided she wanted to study nursing at UVA, she wrote to Virginia magazine in 2010. She graduated in 1946, and worked at UVA and in Houston, as an operating room supervisor.

Amiss had had dental surgery and didn't feel up to talking when C-VILLE reached her, and she did not respond a follow-up call.

While she is suing to keep the Confederate statues, she was not a fan of other sculptures installed around town by the city's Art in Place program, a nonprofit dedicated to public art. In 2005, she asked City Council to eliminate the \$5,000 it gave to the program. As Cvilleindymedia.org reported, "At

the last meeting, her immortal words rang out: 'Rearranged junk is still junk.'"

On Facebook, she supports prayer in school—and in the White House.

And through marriage, Amiss is related to Unite the Right organizer Jason Kessler. According to Ancestry.com and U.S. Census records, her husband, Lester "Randy" Amiss was first cousin to Kessler's great-grandfather, LaSalle Norvell.

## Stefanie Marshall

Albemarle resident Marshall is chair of the Monument Fund and has "personally expended money and effort in cleaning graffiti from the Lee monument in 2011 and 2015," says the complaint.

She and her husband own construction company M3, which specializes in masonry. The company supports the Fraternal Order of Police, Live Arts, The Paramount Theater, Albemarle Charlottesville Historical Society and various local charitable organizations, according to its website.

The lawsuit is not the first time the county resident and Albemarle High grad has had a problem with city government. In 2016, she took issue with City Council's decision to honor Khizr and Ghazala Khan, and told council: "It seems to me that in order for a Gold Star family to be honored and recognized by the current City Council, they must speak at the Democratic National Convention. This is not appropriate, nor is it acceptable. It reeks of choosing to honor specific families or individuals because they fit your narrative."

Marshall, 52, did not respond to a message from C-VILLE. ☹



1. Attorney and Vietnam War vet Buddy Weber worries that if memorials to unpopular wars can be removed, Vietnam War monuments could be next. 2. Fred Payne, an attorney and lawsuit plaintiff, has testified as an expert on Civil War uniforms. 3. John Tayloe III, ancestor of lawsuit plaintiff Edward Dickinson Tayloe II, was one of the wealthiest men of his generation and "bred horses and slaves," says the New York Times review of Richard Dunn's *A Tale of Two Plantations*.



OFFICIAL RECEIPT  
ALBEMARLE CIRCUIT COURT  
CIVIL

DATE : 05/29/2019

TIME : 10:52:37

CASE # : 003CL1900086800

RECEIPT # : 19000003593

TRANSACTION # : 19052900021

CASHIER : JHS

REGISTER # : B361

FILING TYPE : GTOR

PAYMENT : FULL PAYMENT

CASE COMMENTS : TAYLOE, EDWARD DICKINSON v. C'VILLE HOLDINGS, LLC

SUIT AMOUNT : \$1,350,000.00

ACCOUNT OF : TAYLOE, EDWARD DICKINSON

PAID BY : TREMBLAY &amp; SMITH

CHECK : \$342.00

CHECK NUMBER : 3800

DESCRIPTION 1 : GTOR:GENERAL TORT LIABILITY

2 : PLAINTIFF: TAYLOE, EDWARD DICKINSON

3 : NO HEARING SCHEDULED

ACCOUNT CODE	DESCRIPTION	PAID
049	WRIT TAX (CIVIL)	\$25.00
106	(TTF) TECHNOLOGY TRUST FUND FEE (CIRCUIT COURT)	\$5.00
123	LEGAL AID SERVICES	\$9.00
147	INDIGENT ASSISTANCE (INA)	\$1.00

ACCOUNT CODE	DESCRIPTION	PAID
170	COURT TECHNOLOGY FUND	\$10.00
229	COURTHOUSE MAINTENANCE FEE (CHMF)	\$2.00
304	CIVIL FILING FEE (LAW & EQUITY)	\$290.00

TENDERED : \$ 342.00

AMOUNT PAID : \$ 342.00